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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,118

02/04/2004

Paul V. Cooper

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3988

23619

7590

02/02/2010

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EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

02/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,118	<b>Applicant(s)</b> COOPER, PAUL V.	
	<b>Examiner</b> Scott Kastler	<b>Art Unit</b> 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13 and 15-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 19-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 11-13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1-7 and 19-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/20/2007.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 9, 1-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,330,328 to Cooper (Cooper'328). Cooper'328 teaches at col. 7 lines 3-18 and figures 1 and 15 for example, a molten metal pump (10) including a superstructure (262) where support posts (24) of substantially equal height (see fig. 1 for example) support the superstructure and where the support posts comprise a first portion with a narrower first width which extends through an opening in the superstructure and is secured thereto by means of a clamp and throughbolt system (30) in fig. 1 as well as the embodiment of fig. 15 for example) and a second portion with a wider width and stepped section (meeting the requirement of a top surface) which is situated below and in contact with the superstructure, thereby at least partially supporting the

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superstructure on a top surface of the second portion, thereby showing all aspects of the above claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 11-13, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper'328. Cooper'328 teaches at col. 7 lines 3-18 and figures 1 and 15 for example, a molten metal pump (10) including a superstructure (262) where support posts (24) of substantially equal height (see fig. 1 for example) support the superstructure and where the support posts comprise a first portion with a narrower first width which extends through an opening in the superstructure and is secured thereto by means of a clamp and throughbolt system (30) in fig. 1 as well as the embodiment of fig. 15 for example) and a second portion with a wider width and stepped section (meeting the requirement of a top surface) which is situated below and in contact with the superstructure, thereby at least partially supporting the superstructure on a top surface of the second portion, thereby showing all aspects of the above claims except the provision that the clamp be configured to extend over the top surface of the support post or the provision that the throughbolt hole have a diameter of greater than 1/32" more than the throughbolt. However, since a clamp is disclosed in both Cooper'328 and the instant claims, and the clamps both operate in substantially the same manner (by securing

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support posts (24) to a superstructure (262) without the need for cement or threaded bores (see col. 10 lines 45-60 of Cooper'328 for example) with substantially the same results (improved connections with greater ease of replacement and repair) motivation to alter the clamp configuration of Cooper'328 to any other equally useful configuration, including that instantly claimed, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made since it has been well settled that where, as in the instant case, where a component (the clamp) is shown by the applied prior art, motivation to alter the shape or configuration of that component without materially altering the function of the component would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. With respect to the throughbolt hole size, since the throughbolt system of Cooper'328 and that of the above claims operate in substantially the same manner with substantially the same results, motivation to employ any equally useful throughbolt hole diameter, as long as it is large enough to receive the throughbolt, as also required by Cooper'328 would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. Since it has been well settled that motivation to alter the size or shape of a component (the throughbolt hole) shown by the prior art without materially altering the operation of the component or apparatus, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV A and B.

### ***Response to Arguments***

Applicant's arguments with respect to presently amended claims 8, 9, 11-13 and 15-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott Kastler/  
Primary Examiner, Art Unit 1793

sk